

CLAYTON CHESSMAN

IBLA 78-79 Decided March 31, 1978

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, dated October 21, 1977, rejecting an oil and gas lease offer in a simultaneous drawing for failure to be fully executed. W 61228.

Reversed and remanded.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Drawings

An entry card in a simultaneous oil and gas lease drawing need not be rejected where the card sets out in the parcel designation the complete name of the state in which the parcel is located instead of the abbreviation of the state name used as the state code prefix. All else being regular, such an entry card is fully executed.

APPEARANCES: Clayton Chessman, pro se; John Bancroft, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Clayton Chessman appeals from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated October 21, 1977, rejecting his oil and gas lease offer in a simultaneous drawing held September 26, 1977, on the grounds that the offer was not fully executed. The tract in question, "WY-66," consists of 760 acres located in sec. 24, T. 37 N., R. 69 W., and sec. 26, T. 38 N., R. 69 W., sixth principal meridian, Converse County, Wyoming.

In its "Notice of Lands Available for Oil and Gas Filings" (Notice), posted September 19, 1977, BLM apprised potential offerors that: "The filings must be on 'Simultaneous Oil and Gas Card,' Bureau Form 3112-1, dated May, 1974 and thereafter. NOTE: All

Forms 3112-1 must show the State Code, (WY), as prefix and PART OF the parcel numbering system." (Emphasis in the original.)

An examination of appellant's entry card, the first drawn for Parcel WY-66, discloses he submitted the February 1976 version of Form 3112-1. In the six small boxes labelled "Parcel number applied for" appears only the numeral 66 rather than "WY-66." Just above the six small boxes, however, is the rubber stamped word "Wyoming."

BLM rejected this entry card, stating in pertinent part:

Your simultaneous oil and gas lease offer for Parcel No. WY-66, of List No. 9-77, is hereby rejected, as the drawing card was not complete as required by * * * 43 CFR 3112.1-2(a) [sic] - Card not fully executed. State prefix (WY) omitted. See Etta D. Harris, 29 IBLA 259 (1977); Gerald L. Christensen, et al., 30 IBLA 303 (1977).

Notice of Appeal was received November 15, 1977, and a Statement of Reasons received December 12, 1977.

Appellant urges two grounds for reversing BLM's decision. He asserts first that his drawing card was fully executed within the meaning of 43 CFR 3112.2-1(a) and second that the instructions for filing under the new parcel numbering system are ambiguous.

We may quickly reject appellant's second contention. Any ambiguity arising from the BLM instructions which appellant cites in his Statement of Reasons is eliminated by the crystal clarity of the language quoted from the Notice. BLM has stated as emphatically as possible that parcel numbers are to contain "WY" as a prefix. Moreover, the Notice lists the parcel by its proper designation "WY-66." We see no room for misapprehension of what was required.

We see greater merit, however, in appellant's first argument. He contends that "Wyoming 66" includes the "WY" of "WY-66," that he has satisfied the requirements of 43 CFR 3112.2-1(a), and that the other letters are to be disregarded as surplusage or accepted as an excess of caution.

43 CFR 3112.2-1(a) states: "Offers to lease such designated leasing units by parcel number must be submitted on a form approved by the Director, 'Simultaneous Oil and Gas Entry Card' signed and fully executed by the applicant or his duly authorized agent in his behalf."

In many prior cases, we have applied a stringent construction to the phrase "fully executed" and held proper the rejection of entry cards for even slight irregularities. Such an approach is

justified by the vast number of cards which BLM must process in each drawing. 1/ Inadequately executed forms create uncertainties that jeopardize the efficient administration of the leasing program. A policy of rejecting improperly executed forms places the burden of alleviating these difficulties on the offerors, who may avoid trouble merely by following directions. See Albert E. Mitchell III, 20 IBLA 302 (1975).

Thus, we have held that under the former system for designating parcels by number and state name, entry cards omitting the state name should be rejected. E.g., Martin M. Sheets, 32 IBLA 7 (1977); Denna R. Van De Walker, 28 IBLA 60 (1976); Gerald G. Calhoun, 27 IBLA 362 (1976); Richard Lovatt, 27 IBLA 306 (1976); James W. O'Connor, 27 IBLA 247 (1976).

Similarly, under the present system, we have held that omission of the state code prefix, Gerald L. Christensen, *supra*; Etta D. Harris, *supra*; or use of an incorrect prefix, Marcia P. Lane, 33 IBLA 68 (1977), justified rejection.

[1] However, we have not yet considered a case such as this where the information submitted contains all that is required plus a bit more. In the absence of any possible confusion or administrative burden resulting from or imposed by the added letters in the complete state name, we find that they constitute mere surplusage and, as such, they will be disregarded and the prefix held proper and the entry card to have been "fully executed."

We cannot see that serious difficulties will arise because an applicant uses the full name of a state instead of its abbreviation. 2/ Appellant's intent to lease WY-66 cannot seriously be questioned. Nor have we been shown any stages in the processing of the applications that would be impaired by use of the full name.

1/ In the drawing involved here, for example, 166, 768 offers were filed for 281 parcels. More than 3,000 offers were filed for WY-66 alone.

2/ The number two entry card which would have to be considered if appellant's offer were rejected designates the parcel as WYO 66 instead of WY-66

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and remanded for further proceedings consistent herewith.

Martin Ritvo
Administrative Judge

We concur.

Newton Frishberg
Chief Administrative Judge

Joan B. Thompson
Administrative Judge

Joseph W. Goss
Administrative Judge

ADMINISTRATIVE JUDGE HENRIQUES DISSENTING

The Notice of Lands Available for Oil and Gas Leasing dated September 19, 1977, in the Wyoming State Office, Bureau of Land Management, contained this specific language: "NOTE: All Forms 3112-1 must show the State Code, (WY), as prefix and PART OF the parcel numbering system." (Emphasis in original.) The September Notice listed 281 parcels, each identified with the prefix "WY" and a number, from WY-1 to WY281.

The pertinent requestions are in 43 CFR Subpart 3112. In 3112.102, it is provided that "[t]he posted list will describe the lands by leasing units identified by parcel numbers * * *." In 3112.2-1, it is provided that "offers to lease such designated leasing units by parcel numbers must be submitted on a form approved by the Director, * * *" and "[T]he entry card will constitute the applicant's offer to lease the numbered leasing unit."

Parcel WY-66 in the September 1977 simultaneous filing procedure received 3341 drawing entry cards (DEC). At the drawing, pursuant to 3112.2-1(a)(3), the DEC of Clayton Chessman was drawn first, the DEC of John M. Bancroft second, and the DEC of Edward E. Lambert third.

On the DEC there is a space designated for parcel identification.

Parcel number
applied for [T T T T T T T]
R R R R R R R

The DEC of Chessman identified t e parcel thus:

WYOMING
[T T T T T T6T6]
R R R R R R R

The DEC of Bancroft thus:

WYO
[6T6T T T T]
R R R R R

The DEC of Lambert thus:

[WYTYT T6T6T]
R R R R R

The Wyoming State Office, BLM, rejected the DEC of Chessman because the "card was not fully executed. State prefix (WY) omitted." I think this rejection was correct.

This Board has held in Gerald L. Christensen, 30 IBLA 303 (1977); in Etta D. Harris, 29 IBLA 259 (1977); and in E. Fenton Carey, 29 IBLA

196 (1977), that a DEC is properly rejected where the applicant fails to include the state prefix of the parcel number, as such a DEC is not "fully executed" within the context of 3112.2-1(a). As we said in Christensen, supra,

Where an applicant fails to include the state prefix of the parcel number on an oil and gas drawing card, he has not complied with 43 CFR 3112.2-1(a) which requires that the card be "fully executed" and such offer must be rejected without priority, whether the defect is discovered before or after the drawing. Etta D. Harris, supra.

The Mineral Leasing Act provides that if the Secretary decides to lease a parcel of federal land, he must issue the lease to the first qualified applicant therefor. 30 U.S.C. § 226(c) (1976). It is well established that an incomplete application does not make the applicant thereof "qualified" to receive a lease where third party rights are outstanding. In this case the third party rights of Lambert must be recognized. Neither the DEC of applicant Chessman or of appellee Bancroft is complete and neither, therefore, is entitled to any priority over the third-drawn DEC of Lambert, which is properly completed.

I would affirm the rejection of the Chessman DEC, and reject the Bancroft DEC, then remand the case with instruction to issue a lease in response to the Lambert DEC, all else being regular.

Douglas E. Henriques
Administrative Judge

ADMINISTRATIVE JUDGE FISHMAN DISSENTING:

For decades the hallmark of oil and gas adjudication has been the requirement of strict and unbending compliance with technical and often petty strictures. See e.g., Charles D. Lee, A-30535 (May 19, 1966).

At issue here is the designation of a tract of land in a drawing card of a simultaneous offering, which involves rights of third parties.

In the notice posted September 19, 1977, BLM advised potential offerors that "All Forms 3112-1 must show the State Code (WY), as prefix and PART OF the parcel numbering system." (Emphasis in original.)

The majority finds "the absence of any possible confusion or administrative burden resulting from or imposed by the added letters in the complete state name" the predicate for granting relief.

This rationale is compelling, but for one fact - the rationale has been rarely, if ever, applied to oil and gas adjudication.

In Lee, the offeror identified acquired lands by tract number, which lands had been surveyed under the public land surveys. The regulations required that they be identified in terms of the public land surveys, i.e., by subdivision, section, township, and range. There was not a scintilla of doubt as to the specific lands applied for, but the Department upheld the rejection of the offer on the basis that the offer did not satisfy the regulatory requirement as to surveyed lands. See also J. W. McTieman, A-30645 (February 14, 1967); Jacob N. Wasserman, 74 I.D. 392 (1967); Arthur E. Meinhart, 6 IBLA 39 (1972).

While I do not cherish the concept of rigidity in these oil and gas matters, I do not find any basis for departing in this case from our usual insistence upon strict compliance.

I would affirm the decision below.

Frederick Fishman
Administrative Judge

I concur:

Edward W. Stuebing
Administrative Judge

